Quarterly Report

OF THE

ATTORNEY GENERAL

OF

ALABAMA

FOR THE PERIOD

FROM JULY 1, 1975
THROUGH SEPTEMBER 30, 1975

WILLIAM J. BAXLEY, Attorney General

VOLUME 160

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MONTGOMERY, ALABAMA

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QUARTERLY REPORT

of the

ATTORNEY GENERAL

of

ALABAMA

For the Period

From July 1, 1975

Through September 30, 1975

TO THE STATE, COUNTY, AND MUNICIPAL OFFICERS OF ALABAMA:

This Quarterly Report of the Attorney General of Alabama, which includes all official opinions rendered by the Attorney General from July 1, 1975, through September 30, 1975, is published in compliance with the provisions of Title 55, Section 228 Code of Alabama, 1940.

Under this section of the Code, I am required to send seven copies of this Quarterly Report to each judge of probate in the State, and the judge of probate, in turn, is required to deliver one copy each to the clerk of the circuit court, the sheriff, the tax collector, the tax assessor, the county superintendent of education, and the deputy district attorney of his county. The section also requires that I send a copy of this report to each district attorney and the chief executive officer of each incorporated municipality in the State.

The office of the Attorney General is anxious to render prompt and efficient service to the State, County, and municipal officials. If you have any suggestions to make regarding the improvement of the service, I shall be glad to hear from you.

Sincerely,

WILLIAM J. BAXLEY

Attorney General

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July 30, 1975

Honorable Tom W. Turner
Probate Judge and Chairman
Washington County Commission
Chatom, Alabama 36518

Bds. of Education must provide necessary facilities for instruction and training for exceptional children. If such facilities are not available in the public school system, funds must be made available for instruction at private non-denominational institutions.

Opinion by Assistant Attorney General Lurie.

Dear Judge Turner:

Your letter of July 23, 1975, together with copy of Articles of Incorporation of Exceptional Children, Inc., has been received.

You have requested an opinion from this office as to whether or not county funds may be appropriated for the purpose of providing education and training of exceptional children and whether such funds may be paid directly to the training facility or to the county board of education to be paid by them to the training facility.

The answer to both of your questions is in the affirmative. Title 52, Section 207, Code of Alabama Recompiled 1958, as amended, provides as follows:

> "The courts of county commissioners or boards of revenue of the several counties of Alabama are authorized at any meeting of said court in any calendar year to appropriate any funds they may deem proper and expedient out of the general funds of the county treasury for the construction repair, operation, maintenance and support of new or existing public schools within said county.

Act #652, 1959 Acts, page 1576, provides as follows:

> "The county, city and independent school district boards of education, hereinafter called the local boards of education, under such rules and regulations as they shall determine, may provide assistance for residents of their respective districts for instruction on an elementary or secondary level at a private non-denominational institution when such instruction is not available to such residents at any public educational institution within the district. The local boards of education shall, by their rules and regulations, determine the qualifications of persons who may be aided under the provisions of this chapter, and the decisions as to the qualifications of persons by each of the said boards shall be final. Each local board of education may provide assistance for elementary or secondary

school instruction at any private non-denominational institution, as it deems necessary, within or without the district. The local board of education shall provide assistance for such elementary or secondary instruction within the limits of funds available for educational purposes at a cost per pupil not exceeding the probable cost of such instruction if it were available at a public school within the district. The local board of education in providing assistance in such instruction, may take into consideration differences in travel, tuition, and other expenses."

In view of the provisions of law hereinabove cited the necessary conclusion not only permits, but requires, that the county and the board of education involved provide the necessary facilities for instruction and training for exceptional children: and if such facilities are not available in the public school system, then they must provide such assistance for instruction at a private non-denominational institution and make funds available for payment thereof.

Yours very truly,

WILLIAM J. BAXLEY
Attorney General

August 1, 1975

Honorable Thomas H. Benton
Sheriff
Baldwin County
Bay Minette, Alabama 36507

Courts — Municipalities — Recorders

1. When a recorder convicts a person of a misdemeanor, he must prescribe punishment within the limits provided by state laws and he may sentence the person to the county jail.

2. When a recorder convicts a person of violating a city ordinance, he may sentence such person to the city jail.

Opinion by Assistant Attorney General Gish.

Dear Sir:

Your request for an official opinion of this office dated July 9, 1975, is as follows:

"Title 37, Section 586, provides:
"The recorder trying any person for violation of any bylaw or ordinance of the city shall, upon conviction of such person, have the power to fine and imprison him and to sentence him to hard labor upon the streets or public works, or in the

workhouse or house of correction of the city; and in the event the fines and cost are not presently paid, to require the offender or person thus in default to work out the fine and costs under the direction of the city authorities, allowing not less than seven dollars and fifty cents ($7.50) for each day's service. No fine shall exceed two hundred dollars ($200.00), and no sentence of imprisonment or hard labor shall exceed six months (6), and no female shall be required to work on the streets of the city. The recorder trying any case, if the defendant be convicted, may accept a confession of judgment of the defendant and sureties for the fine and cost which may contain a waiver of exemptions as to personalty, and if such judgment is not paid in ninety days (90) the recorder shall issue an execution thereon against the defendant and sureties which may be collected by the chief of police of the municipality or any lawful officer just as are executions issued on judgments from courts of law in this state.

"Title 37, Section 594, provides:

"The recorder shall have original and concurrent jurisdiction with the county court or court of like jurisdiction, of all misdemeanors committed within the city or town, or within the police jurisdiction thereof, but no fine or judgment of acquittal or conviction rendered by said recorder shall be a bar to a prosecution by the state in any case where the facts or offense charged constitute a felony under the laws of the State of Alabama. When a person has been tried and convicted of any offense which is a misdemeanor under the state laws, by a municipal officer empowered by law to try such offense, he shall be punished as provided by law.

"Title 37, Section 595, provides:

"When the recorder, under the preceding section, convicts a party of a misdemeanor against the state, the limits of the punishment shall be those imposed by the state law for the offense; and whenever the state has prescribed for such offense punishments in the alternative or conjunctively, such as fine and imprisonment or hard labor for the county, or compulsory imprisonment or hard labor for the second or a subsequent offense, the punishment to be inflicted by the municipal officer enforcing the state law, shall be as prescribed by the state law, and within the limits prescribed for the particular offense; and in no case less than the minimum fixed by the state law.

"QUERY ONE: Does the city recorder have the authority to sentence a prisoner to a county jail for violation of a city by-law or ordinance?

"QUERY TWO: Does a city recorder have the authority, under Title 37, Section 594, to sentence a prisoner to a county jail?"

The jurisdiction and power of a municipal recorder is controlled

by Title 37, Chapter 12, Code of Alabama 1940, Recompiled 1958. Those statutes quoted in your request are found in said Chapter 12.

When Chapter 12, supra, is considered as a whole, we find that a recorder has dual jurisdiction. He has authority to convict persons charged with the violation of municipal ordinances as well as authority to convict persons charged in his court with the commission of misdemeanors.

Under the provisions of Chapter 12, supra, a recorder may sentence a person whom he convicts of violating a municipal ordinance to city jail. Where a person is accused of a misdemeanor and is convicted by a recorder, such recorder has authority to sentence the person to county jail if such punishment is provided by state law.

Therefore, your first question is answered in the negative and your second question is answered in the affirmative.

We trust that this opinion furnishes the desired information.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

August 13, 1975

Mr. Thomas H. Benton
Sheriff
Baldwin County
Bay Minette, Alabama 36507

Firearms — Licenses

Act of the State Legislature removing disabilities of minority from those nineteen years and older, does not affect twenty-one year old limit on the right to purchase handguns, as such is regulated by Federal law.

Opinion by Assistant Attorney General Reaves.

Dear Sheriff Benton:

I have your inquiry dated July 24, 1975, which questions the effect of the recent legislative act lowering the legal age of majority in Alabama to nineteen, as concerns the licensing and purchase of handguns.

In my opinion, this act has no effect on the twenty-one year old restriction on the sale and delivery of handguns (firearms other than shotguns and rifles) as such is regulated by Federal statute.

Title 18 USC, §922 (b) states:

It shall be unlawful for any licensed importer, licensed manu-

facturer, licensed dealer, or licensed collector to sell or deliver —

(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than, a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age."

The Federal regulation above imposing the twenty-one year old restriction on sale and delivery of handguns, would control the issue in my opinion. It would appear to be a violation of the Federal mandate to issue a license to one under the age of twenty-one, since he could not lawfully purchase such a handgun at that age.

I hope that this will sufficiently answer your inquiry.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

August 15, 1975

Honorable Joel Hewitt Burgess
Deputy Superintendent
Jefferson County Board of Education
A-400 Courthouse Building
Birmingham, Alabama 35203

County Board of Education — Employees — Deductions
Payroll deductions of County Board of Education employees discussed.

Opinion by Assistant Attorney General DeBardelaben.

Dear Sir:

This letter is in response to your letter of June 30, 1975 concerning payroll deductions for employees of the Jefferson County Board of Education. Your first question asks whether continuing payroll deductions may be made without yearly confirmation by the individual employees. Your question is answered in the affirmative.

As I understand the situation, the deductions in question are purely voluntary. An opinion of this office to Honorable R. H. Vickery, Superintendent, Monroe County Schools, under date of November 14, 1963, discussing voluntary deductions stated that:

". . . deductions from a teacher's salary should not be made unless said teacher voluntarily requests same and reserves the right to discontinue such payments in the future."

It is my opinion that voluntary deductions should not be made from any employee's salary unless the employee requests the deduction and reserves the right to discontinue it in the future. When an employee does request voluntary deductions, such deductions remain effective as long as the employee is employed by the board of education unless he requests such deduction to be discontinued.

Your second question asks if the dues are increased for which the payroll deduction is being made, may the deduction be increased without the employee confirming the increase by signature. Your question is answered in the negative.

When an employee voluntarily requests a specific monetary deduction from his salary to pay certain dues, the amount being deducted may not be increased without the written approval of the individual concerned. However, if the deduction authorization signed by the employee states that any increase in dues will be automatically withheld unless the employee instructs the board of education otherwise, then the deductions may be automatically increased upon the increase of dues if the employee is notified of such increase and is given an opportunity to discontinue the deduction.

If this office may be of any further assistance in this matter, please let us know.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

August 25, 1975

Mr. Melvin G. Cooper
Executive Director
Alabama State Ethics Commission
312 Montgomery Street
Montgomery, Alabama 36104

Officers — Ethics Commission.

Provisions of Act No. 130 of the Regular Session of the Alabama Legislature which remove incumbent Ethics Commissioners and prohibit their reappointment are unconstitutional and invalid.

Opinion by the Attorney General.

Dear Mr. Cooper:

In your recent letter you asked several questions concerning the effect of the recently adopted amendments to the State Ethics Law on the status of the Ethics Law, the Ethics Commission and the Ethics Commission staff. Rather than respond individually to each of the numerous questions which you have raised and others which might

arise, I will attempt to give you a comprehensive opinion on the status and effect of the newly adopted amendments to the Ethics Law.

The original Ethics Law was adopted as Act No. 1056 of the 1973 Regular Session of the Alabama Legislature on September 14, 1973. It was submitted to the Attorney General of the United States pursuant to the requirements of the Voting Rights Act of 1965 on October 20, 1973 and it was approved by the Attorney General of the United States on December 12, 1973.

Act No. 1056 proscribed certain conduct by affected persons which might involve conflicts of interest, required certain financial disclosure by affected persons and created a State Ethics Commission with prescribed duties to implement and administer the other provisions of the act. Section 17(a) of Act No. 1056 provided in pertinent part:

> "(a) There is hereby created a State Ethics Commission which shall be composed of five members, each of whom shall be a fair, equitable citizen of this state and of high moral character. No member of the commission shall be eligible for appointment to succeed himself, except that members appointed to the first commission may each be appointed one time to succeed himself. One member of such commission shall be appointed by each of the following officers: the Governor, the Lieutenant-Governor, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the Attorney General. The members of the first commission shall be appointed for terms of office expiring one, two, three, four and five years, respectively, from the date on which this act becomes law, the member being appointed by the Governor having the one-year term, the member appointed by the Lieutenant-Governor having the two-year term, the member appointed by the Speaker of the House having the three-year term, the member appointed by the Chief Justice having the four-year term, the member appointed by the Attorney General having the five-year term. Successors to the members of this first commission shall each be appointed for terms of five years and until their successors are appointed and have qualified. . . ."

Pursuant to this provision the following Commissioners were appointed as of September 14, 1973: Dr. Leslie S. Wright, appointed by Governor George C. Wallace to serve for a term of one year; Mr. Connie Entrekin, appointed by Lieutenant-Governor Jere Beasley for a term of two years; Mr. Donald Comer, appointed by the Speaker of the House of Representatives Sage Lyons for a term of three years; Dr. George E. Bagley, appointed by Chief Justice Howell Heflin for a term of four years; and Mr. Alto V. Lee, appointed by Attorney General Bill Baxley for a term of five years. Dr. Leslie Wright was reappointed effective September 14, 1975 to serve a full five-year term.

Section 17(d) of Act No. 1056 provided that the Commissioners

would be entitled to receive compensation at the rate of $50 per day and expenses.

It should be noted here that the Legislature vested appointive power in certain constitutional officers and those officers exercised that power to appoint Commissioners for definite terms and prescribed compensation. Those Commissioners have, of course, entered upon their respective terms of office.

Section 17(g) of Act No. 1056 required the Commission to appoint an Executive Director and such other staff as needed to serve at the pleasure of the Commission but, except for the Executive Director, subject to the State Merit System Law. As directed by this section the Commission appointed an Executive Director and a staff and those persons have served, and are now serving, in their respective capacities.

Then on August 7, 1975 the Alabama State Legislature adopted, over the Governor's objections, an act "to amend and re-enact" Act No. 1056. This act, Act No. 130 of the 1975 Regular Session of the Alabama Legislature, removed or qualified several of the prohibitions against actions involving possible conflicts of interest and clarified and redefined the persons to whom the Ethics Law applies.

Act No. 130 also changed the manner of appointing Commissioners by eliminating the Attorney General and the Chief Justice as appointing authorities and by requiring confirmation by the Senate. It amends former Section 17(a), renumbered as Section 16(a) to read:

> "(a) There is hereby created a State Ethics Commission which shall be composed of five members, each of whom shall be a fair, equitable citizen of this state and of high moral character. No member of the commission shall be eligible for appointment to succeed himself. The members of such commission shall be appointed by the following officers: the Governor, the Lieutenant-Governor, and the Speaker of the House of Representatives and shall assume their duties upon confirmation by the Senate. The members of the first commission shall be appointed for terms of office expiring one, two, three, four and five years, respectively, from September 1, 1975. Successors to the members of this first commission shall each be appointed for terms of five years and until their successors are appointed and have qualified. . . ."

Act No. 130 further adds Section 16(h) which provides:

> "(h) No person heretofore appointed to the Ethics Commission pursuant to Act No. 1056, S-1, Regular Session of 1973 shall be eligible for appointment or membership of the commission after the effective date of this act."

Thus, the effect of these amendments to the Ethics Law would be to prematurely terminate the terms of office of the Commissioners

appointed and serving pursuant to Act No. 1056 and to prohibit those five persons alone from serving on the State Ethics Commission again.

It is my opinion that these provisions are unconstitutional and invalid. It is my opinion that they are in violation of Article I, Section 10 and the Fourteenth Amendment of the Constitution of the United States and Section 68, 104(24), 281 and Amendment 92 of the Alabama State Constitution.

Article I, Section 10 of the Constitution of the United States provides, in relevant part:

> "No state shall . . . pass any bill of attainder . . ."

A "bill of attainder" prohibited by this section of the Constitution is simply a legislative act that applies either to named individuals or to easily ascertainable members of a group to inflict punishment on them without judicial trial. **Fletcher v. Peck,** 10 U.S. 87 (1810); **Cummings v. Missouri,** 71 U.S. 277 (1867); **U. S. v. Lovett,** 328 U.S. 303 (1946); **U. S. v. Brown,** 381 U.S. 437 (1965).

The "punishment" required to constitute a bill of attainder is not limited to criminal punishment, as imprisonment or fine, but may include any deprivation or damage. In **Fletcher v. Peck, supra,** Chief Justice Marshall observed that ". . . a bill of attainder may affect the life of an individual, or may confiscate his property, or may do both." The punishment inflicted by a bill of attainder may be "outrage on the feelings as well as restraints on the person." **Cummings, v. Missouri,** 71 U.S. 277 at 320. Disqualification from public office may also be punishment inflicted by a bill of attainder. **Cummings v. Missouri, supra.**

U. S. v. Lovett, supra, involved a legislative act with effect similar to that of Act No. 130 terminating the employment of three employees of the federal government. In 1943 the United States Congress passed an act called the Urgent Deficiency Appropriation Act. Section 304 of that act stated the following:

> "No part of any appropriation, allocation, or fund (1) which is made available under or pursuant to this Act, or (2) which is now, or which is hereafter made, available under or pursuant to any other Act, to any department, agency, or instrumentality of the United States, shall be used, after November 15, 1943, to pay any part of the salary, or other compensation for the personal services, of Goodwin B. Watson, William E. Dodd, Junior, and Robert Morss Lovett, unless prior to such date such person has been appointed by the President, by and with the advice and consent of the Senate."

The Supreme Court, per Justice Black, held that Section 304 was "precisely within the category of congressional actions which the Constitution barred" in the section on bills of attainder. 328 U.S. at 315. Justice Black further elaborated:

> "Section 304 was designed to apply to particular individuals . . .
>
> This permanent proscription from any opportunity to serve the government is punishment, and of a most severe type . . ." 328 U.S. at 316.

As Chief Justice Warren observed in **U. S. v. Brown, supra,** p. 447, the Constitutional proscription against bills of attainder was intended to bar "Legislative punishment, of any form or severity, of specifically designated persons or groups."

As Justice Field stated in **Cummings v. Missouri, supra,** p. 362:

> "The theory upon which our political institutions rest is that all men have certain inalienable rights — that among these are life, liberty and the pursuit of happiness; and that in the pursuit of happiness all avocation, all honors, all positions, are alike open to everyone and that in the protection of all these rights all are equal before the law. Any deprivation or suspension of any of these rights for past conduct is punishment. . . ."

Sections 16(a) and 16(h) of Act No. 130 clearly single out Dr. Wright, Mr. Entrekin, Mr. Comer, Dr. Bagley and Mr. Lee for discriminatory deprivation. Of the several million citizens of the State of Alabama, only these five are specifically prohibited from membership on the State Ethics Commission. They are removed from office and they are forever barred from membership on that commission.

They are, as a matter of law, being selectively punished without cause and without judicial due process. Consequently, these provisions constitute a bill of attainder and were enacted in violation of the Constitution of the United States. They are, herefore, invalid.

Moreover, Act No. 130 would, by its terms, remove Dr. Wright, Mr. Entrekin, Mr. Comer, Dr. Bagley and Mr. Lee from office without following the statutorily prescribed removal or impeachment procedures and without any showing of cause. The summary manner in which Act No. 130 attempts to accomplish this impeachment is in violation of the requirements of due process of the Fourteenth Amendment of the Constitution of the United States. [See particularly **Joint Anti-Fascist Refugee Committee v. McGrath,** 341 U. S. 123 (1950).]

Act No. 130 also violates the equal protection clause of the Fourteenth Amendment of the Constitution of the United States by barring these five men alone from ever being a member of the State Ethics Commission. All other citizens of the State of Alabama (except those prohibited by law from holding any state office) would be eligible for appointment to the Ethics Commission. Future commissioners, although not permitted to succeed themselves, could be reappointed at some later date. Only these five men are prohibited from ever serving on the Ethics Commission. Clearly, Act No. 130 does not treat these five men equally with other citizens of the State of Alabama. [See

Reed v. Reed, 404 U. S. 71 (1971) and **Royster v. Virginia,** 253 U. S. 412 (1920).]

Sections 68, 104(24) and 281 and Amendment 92 of the Alabama State Constitution are intended to protect incumbent public officers, and to insure stability and certainty in these positions and to provide some independence from the threat of financial retaliation by providing that an official's salary may not be diminished during his term of office. Act No. 130 violates these constitutional provisions by providing for the complete diminishment of the incumbent commissioner's compensation during the terms for which they were appointed.

As the Alabama Supreme Court stated in **Heck v. Hall,** 238 Ala. 274, 283, 190 S. 280 (1939):

> "While the Legislature permits offices of its creation to continue, those holding the same, with fixed terms and at fixed salaries, are protected by said section of the Constitution [§281] from any diminution of salary . . ."

Since the Ethics Commission and the office of Ethics Commissioner were created by the Legislature, the Legislature could, of course, abolish the Commission and the offices of Commissioner or could provide for a different term of office. However, the Legislature has not done this in Act No. 130. The Ethics Commission is continued by Act No. 130 with the same duties and responsibilities as it had originally. Even the length of the terms of office for Commissioners remains the same under Act No. 130. Act No. 130 amends Act No. 1056 and does not contain any clause repealing Act No. 1056 except to the extent it conflicts with Act No. 130. Rather than, and in contrast to, abolishing the Ethics Commission, Act No. 130 continues the Ethics Commission but merely removes the incumbent Commissioners from office. This, it cannot do.

These provisions of Act No. 130 being unconstitutional, they must be severed from the act. Section 30 of Act No. 130 provides that the provisions of the act are severable and the unconstitutionality of any part of the act shall not affect the remaining part of the act. The incumbent Commissioners appointed pursuant to Act No. 1056 shall remain in office until their terms expire or otherwise terminate and their successors shall be appointed in the manner provided by Act No. 130.

As I have previously advised you, the State Ethics Commission office and staff should continue to operate. There is nothing in Act No. 130 which would terminate their duties or positions. Similarly, funds appropriated for operations of the office may be spent for continuing such operation. However, the Ethics Commission staff serves at the pleasure of the Ethics Commission and may be replaced by the incumbent Commissioners or their successors.

Finally, Act No. 130 has been submitted to the Attorney General of the United States for his approval pursuant to the Voting Rights Act of 1965 and until it is approved by the Attorney General it may

not be implemented or administered. Until such time Act No. 1056 remains in effect.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

August 27, 1975

Honorable J. Paul Meeks, Judge
Probate Court of Jefferson County
110 Courthouse
Birmingham, Alabama 35203

Age of Majority — Probate Court

Act No. 77 grants adulthood to persons in this State who reach the age of nineteen with all of the civil rights as well as responsibilities pertaining thereto.

Opinion by Assistant Attorney General Lett.

Dear Judge Meeks:

Your request for an official opinion of this office dated July 24, 1975 is as follows:

"We will appreciate an official opinion by your office as to what affect the new bill has on the following:

1. Can a person nineteen or twenty years of age serve as

   (a) Executor as limited by Sec. 69, Title 61, Code of Alabama;

   (b) Administrator of deceased estate; or

   (c) Guardian of the estate of a minor non compos mentis?

2. Is a person age nineteen or twenty considered a minor to claim exemptions under Sections 661, 663, 669, 694, and 697 of Title 7, Code of Alabama?

3. Does the Act apply only to citizens in Alabama, or people in the State for the occasion, but not to people of the age of nineteen and twenty residing in foreign states and not visiting in Alabama for the occasion? Specifically, in the probate of a will or distribution of assets in an estate, does a non-resident nineteen or twenty years old require a guardian ad litem to be appointed to serve?

4. May a person nineteen or twenty years of age adopt a child under the provisions of Section 1, Title 27, Code of

Alabama? Also, we assume that any putative father may legitimate an illegitimate child?

5. May a person nineteen or twenty years of age legally have his name changed under the provisions of Section 278, Title 13, Code of Alabama?

6. Does this affect the minimum age for serving on a jury, or serving on a condemnation commission under Section 11, Title 19?

7. When a minor has a legal guardian in charge of his estate and reaches the age of nineteen and is a non compos mentis, will it be necesary to have an inquisition of sanity to continue the guardianship at age nineteen?"

It is the opinion of this office that the above questions may be answered as follows:

1. Yes

2. No

3. The Act applies to all persons in the State — citizenship is not necessary.

4. Yes

5. Yes

6. Yes

7. Yes

This Act reads as follows:

"Enrolled, An Act, To provide that any person in this state at the arrival at the age of nineteen years shall be relieved of their disabilities of minority.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Any person in this state at the arrival at the age of nineteen years shall be relieved of their disabilities of minority; and thereafter shall have the same legal rights and abilities as persons over twenty-one years of age. No law of this state shall discriminate for or against any person between and including the ages of nineteen and twenty-one years solely on the basis of age.

Section 2. This act shall also apply to any person who arrived at the age of nineteen, and twenty years before the effective date of this act but shall not abrogate any defense or abridge any remedy available to him prior to such date.

Section 3. All laws or parts of laws which read under the age of twenty-one years hereafter shall read under the age of nineteen years. Wherever the words under the age of

twenty-one years appear in any law limiting the legal rights and abilities of persons under such age, such words shall be construed to mean under the age of nineteen years.

Section 4. All laws or parts of laws that are in conflict herewith are hereby repealed. Provided, however, nothing in this Act shall be deemed to repeal any provision of Act 335, H. 281,

Third Special Session 1971 (Acts 1971, p. 4622.)"

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law."

Under Act No. 77 when a person reaches the age of nineteen, he has become a full adult and thereby acquires all of the civil rights as well as responsibilities that any other adult has.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

August 28, 1975

Honorable Earl C. Morgan
District Attorney
Tenth Judicial Circuit of Alabama
610 Courthouse
Birmingham, Alabama 35203

Age of Majority — Jurors — Juries

Act No. 77 providing that any person in this state at the age nineteen shall be relieved of the disability of minority would require that he be added to the jury roles jury duty.

Opinion by Assistant Attorney General Lett.

Dear Mr. Morgan:

Your request for an official opinion of this office dated August 12, 1975 is as follows:

"I am writing to request your official opinion concerning the application of Act No. 77 of the 1975 Legislature of Alabama, Regular Session, to the Jefferson County jury selection statute.

SHOULD QUALIFIED PERSONS BETWEEN THE AGES OF NINETEEN AND TWENTY-ONE YEARS OF AGE BE ADDED TO THE JURY ROLES OF JEFFERSON COUNTY?

Act No. 77, Section 3 states "All laws or parts of laws which

read **under the age of twenty-one years** hereafter shall read under the age of nineteen years."

"Title 30, Section 21, Code of Alabama 1940, Recompiled 1958, containing qualifications of persons on jury rolls, provides, ". . ., but no person must be selected who is under twenty-one . . ."

Title 62, Section 199 (Provisions of Law Applicable to Jefferson County) states, "The jury board shall obtain as nearly as practicable the name of every male citizen **over the age of twenty-one** and under the age of sixty-five years . . ."

The general jury selection statute reads "under the age of twenty-one years" and would be changed by Act No. 77 to read "under the age of nineteen years." Does Act No. 77 apply to the local Jefferson County Act even though the local act uses the wording "**over** the age of twenty-one" instead of **under** the age of twenty-one?"

It is my opinion that Act No. 77 does apply to the local Jefferson County Act notwithstanding the phrase "over the age of twenty-one." The phrase should now read "over the age of nineteen."

Very truly yours,

WILLIAM J. BAJLEY
Attorney General

September 2, 1975

Maury Friedlander, Esq.
County Attorney
Mobile County Commission
Post Office Box 1443
Mobile, Alabama 36601

County Commission — Liability — Insurance — Workmen's Compensation

Effect of Alabama Supreme Court Decision in Lorence v. Hospital Board Removing County Hospital Immunity.

Opinion by Assistant Attorney General McPhillips.

Dear Mr. Friedlander:

In your letter dated July 23, 1975 to the Attorney General of Alabama, you have raised several questions with respect to the recent ruling of the Supreme Court of Alabama in **Lorence v. Hospital Board of Morgan County** (Supreme Court Case 1137, decided July 10, 1975).

In reference to your first question, you cited two sections of the **Code of Alabama,** namely Title 7, Section 96 for its provision that a

suit must not be brought against a county until a claim has been presented to the Commission, and Title 12, Section 12 (4) for its provision that a Commission has authority to examine and settle all accounts and claims chargeable against the county. You also stated that, previous to **Lorence, supra,** the Mobile County Commission did not have the authority to settle tort claims.

Your first question therefore is whether or not, when claims are presented to the Commission based upon a misfeasance or non-feasance occurring subsequent to July 10, 1975, the Commission may investigate a claim, and upon a proper finding of fact, pay a claim? The answer is yes for some claims and no for other claims. A strict reading of the Court's opinion in **Lorence, supra,** leads to the conclusion that those tort claims which are now chargeable against a county are only those for which the Alabama Legislature has expressly allowed a claim. The language of the **Lorence** case limits its holding to county hospitals:

> "What is before us is the immunity question with respect to county hospital boards; and because the statute authorizing such corporate entity expressly provides for suits against them, **Jackson,** in its holding and rationale, compels a like conclusion."

Under Title 22, § 204 (24) **Code of Alabama 1940** (Recomp. 1958) express provision was made for empowering county hospital boards "to sue and be sued and to defend suits against it [and] to provide for such insurance as the corporation may deem advisable." Thus, this section expressly allows tort actions against county hospitals.

However, the court has not yet removed immunity from activities covered only by the general provision "to sue and be sued" found in Title 12, Section 3, **Code of Alabama.** Thus, tort suits based solely on this language should not be settled by county commissions.

Nonetheless, county commissions should examine, settle and allow all tort claims against county hospital boards, and commissions can expect to be held liable for any of such other activities where express legislative provision allows suit.

Your second question is whether or not Title 12, Section 12 (23), which permits the Commission to insure against loss by fire and against liability for damages to person or property, permits the Commission to insure any of its facilities for liability.

First of all, the Commission can undoubtedly insure its hospital boards. Not only would Title 12, Section 12 (23) of the **Code of Alabama** allow such insurance but Title 22, Section 204 (24) provides for insurance by the boards themselves.

The broader question of what other county facilities should be insured can best be answered in the following way: The Commission should insure against any threats of liability to it. Which of the Commission's activities produce threats of liability? The answer is those activities which the legislature has expressly deemed to yield liability

(i.e. the county hospital), and those activities only should be insured. Other activities of facilities need not be insured without an express exercise of the legislative prerogative. Until this situation is altered no insurance need be bought since there is no liability to insure against.

It is possible that the Supreme Court of Alabama may later open up the county to suits based on the general "sue or be sued" provision of Title 12, Section 3 **Code of Alabama.** In anticipation of just such a ruling (based on the dicta of the court in **Lorence**) the Commission might argue that it needs insurance "just in case" the Court acts. This insurance would in fact be designed to cushion the impact of an adverse court ruling stripping the county of all immunity.

The County Commission should know, however, that as matters now stand, counties cannot be liable unless there is an express legislative provision for liability; and insurance need be obtained only for such cases.

Your third question is whether or not the County Commission may elect to come under the workmen's compensation laws of the State of Alabama, if so, insure itself against liability to its employees through such laws.

In answer, there is no apparent reason why the County Commission should not be free to come under workmen's compensation if it so elects. The thrust of new decisions is to place counties more on a par with private corporations as far as vulnerability to suit goes. To deny the Commission the right to elect to come under workmen's compensation laws would seem to go against the trend for no good reason. Such insurance is therefore permissable.

One further question of interest presents itself: Should claims against county hospital boards which arose prior to the decision in **Lorence** be honored by the Commission? The answer is no. Justice Jones appears to give the **Lorence** decision prospective application. In other words, relief is to be granted to **Lorence** and only all others similarly situated who incurred injury from the date of the opinion in **Lorence** (July 10, 1975) forward.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

September 5, 1975

Mr. J. S. Frazer
Personnel Department
402 State Administrative Building
Montgomery, Alabama 36104

Age of Majority.

Act No. 77 generally repeals all laws setting an age higher

than nineteen as a minimum for employment with the state.

Act No. 77 does **not** repeal the minimum employment age requirement (i.e. twenty-one years old) of the Alabama Peace Officers' Standards and Training Act.

Opinion by Assistant Attorney General Lett.

Dear Mr. Frazer:

In response to your request for an opinion on 29 July 1975 regarding the effect of Act No. 77 passed in the 1975 Regular Session of the Alabama Legislature, it is the opinion of this office that the law governing the Alabama Alcohol Beverage Control Board as it applies to employment [Title 29, Section 7 Code of Alabama 1940, Recompiled 1958] was effectively amended lowering the age which a manager or employee of a liquor store may be hired to nineteen years old. Generally, Act No. 77 repeals all laws setting an age requirement higher than nineteen as a minimum for employment with the state.

With regard to the Alabama Peace Officers' Standards and Training Act [Title 55, Section 373 (109) Code of Alabama 1940, Recompiled 1958] it is the opinion of this office that Act No. 77 does **not** lower the minimum age requirement for appointment as a law enforcement officer to age nineteen because the age requirement that law enforcement officers must be from 21 to 45 years old does not relate to majority rights of adults in a general, universal sense—otherwise, the Standards Act would have had no upper age limit. Rather, the 21-45 year age requirement reflects a combination of physical as well as mental qualities and capabilities incident to optimum performance as a law enforcement official. As such, the requirement does not relate to universal majority rights and thus Act No. 77 does not apply in this particular instance.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

September 9, 1975

Mr. John D. Whetstone
Executive Director
Alabama District Attorneys Association
200 South Hull Street — Suite 101
Montgomery, Alabama 36104

Age of Majority — Jurors.

Act No. 77 providing that any person in this state at the arrival at age nineteen shall be relieved of the disability of minority would require that he be added to the jury rolls for jury duty.

Opinion by Assistant Attorney General Lett.

Dear Mr. Whetstone:

Your request for an official opinion of this office dated September 3, 1975 is as follows:

> "The Legislature of this State recently passed, over the Governor's executive amendments, a bill which lowered the legal age to 19 years. This bill is extremely broad in its effect, and has caused several questions to arise concerning the present practice of excluding people under the age of 21 years from jury service.
>
> I would appreciate a formal opinion from your office covering the following questions:
>
> 1. What effect does the 19-year old legislation have on the jury boxes in this State?
> 2. Is there any age requirement in the Code of Alabama which is not changed by this legislation? (I call your specific attention to the fact that the bill has no effect upon the Youthful Offender Act.)
>
> Thanking you for a response at your earliest convenience, I remain."

The answer to the first question is that Act No. 77, 1975 Alabama Legislature, Regular Session, would require that all citizens of this state who are nineteen years of age or older be added to the jury rolls throughout this state.

Your second question can not be answered specifically. Broadly, any age requirement in the Alabama Code that might not be changed by Act No. 77 would be where Federal Law required a higher minimum age or where an age requirement was not incident to majority (a very rare occurence).

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

September 23, 1975

Honorable Tom Drake
Member, House of Representatives
State of Alabama
P. O. Box 36
Cullman, Alabama 35055

The rights of public employees to participate in political affairs under the Merit System discussed.

Opinion by Chief Assistant Attorney General Turner.

Dear Mr. Drake:

We received your request for an opinion on August 27, 1975, in which you inquired about the constitutionality of part of the Alabama State Merit System Act, specifically, Title 55, Section 317, which prohibits the participation of State employees in political affairs. That Act reads as follows:

> "No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified service because of his political or religious opinions or affiliations. No person shall seek or attempt to sue any political endorsement in connection with any appointment to a position in the classified service. No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration. No employee in the classified service, and no member of the board shall, directly or indirectly, pay or promise to pay any assessment, subscription, or contribution for any political organization or purpose, or solicit or take any part in soliciting any such assessment, subscription, or contribution of an employee in the classified service. No employee in the classified service shall be a member of any national, state, or local committee of a political party, or an officer of a partisan political club, or a candidate for nomination or election to any public office, or shall take any part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Provided, however, nothing herein shall prohibit any person in the classified service from serving out the terms of a party office for which he had been elected at the time this chapter goes into effect. Any officer or employee in the classified service who violates any of the foregoing provisions of this section shall forfeit his office or position."

It is our feeling that a merit system act which prohibits employers from forcing employees to participate in politics is necessary for the efficient functioning and the integrity of State government. What we have in Alabama, however, goes much further than this objective, and, in fact, bars State employees from participating in practically every aspect of political life. One part of the merit system act, for instance, bars a State employee from taking part in the "affairs of any political campaign. . ." Such an act is a travesty and makes the employees of the State of Alabama nothing more than second

class citizens. Nevertheless, in light of recent United States Supreme Court decisions in this area, it cannot be said that the merit system act is unconstitutional. The Supreme Court of the United States in the recent case of **Broadrick v. Oklahoma,** 413 U. S. 601 (1973), upheld an Oklahoma State Merit System Act which is almost identical to Alabama's. On the same day that **Broadrick** was decided. the Supreme Court upheld similar restrictions on Federal employees in the case of **United States Civil Service Commission v. National Association of Letter Carriers, AFL-CIO,** 413 U. S. 548 (1973). The latter case dealt, of course, with the Federal Hatch Act. This was the second time that the Supreme Court had been presented with the occasion to construe the constitutionality of the Hatch Act, and it was the second time the act had been upheld. (See also **United Public Workers v. Mitchell,** 330 U. S. 75 (1947).

On February 17, 1972, this office issued an opinion with regard to Section 25 of the Civil Service Act for Jefferson County, Alabama. That section is identical to Section 317 of the State Act. In our opinion of that date, our office took the position that the political activities section of the Jefferson County act was facially unconstitutional. We stated that the act was vague and overbroad and cited a recent United States Fifth Circuit Court of Appeals case holding a similar Georgia Act unconstitutional **Hobbs v. Thompson,** 448 F. 2d 456 (1971). Our opinion in the Jefferson County case and the opinion of the Fifth Circuit in the **Hobbs** case both hold that proscriptions against political activities by classified employees, which are so vague and so broad that employees cannot reasonably know what is proper or improper, violate the First Amendment of the United States Constitution. One year later the Supreme Court handed down its opinion in **Broadrick,** and our opinion with regard to the Jefferson County statute was rendered meaningless. In **Broadrick** the classified employees bringing the action had been disciplined because of political fund-raising activities. The Supreme Court in a 5-4 decision held that political fund-raising activities could clearly be restricted by State law. The court refused to consider whether such activities as placing bumper stickers on cars or wearing campaign buttons were barred by the law. The opinion of the court relied heavily on the fact that the Oklahoma State Personnel Board had issued regulations specifically stating the activities that were barred. It could be that some court will take into account the lack of such definitive regulations in Alabama.

Our opinions must conform to the decisions of the United States Supreme Court. Therefore, we are forced to conclude that Section 317 of the Alabama State Merit System Law is not unconstitutional according to **Broadrick v. Oklahoma,** supra.

Another consideration is the language of Article 1, Section 4 of the Alabama State Constitution Declaration of Rights. It reads as follows:

"That no law shall ever be passed to curtail or restrain the

liberty of speech or of the press; and any person may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty."

There are no court decisions which give any definitive weight to this section. Yet, there is good reason to believe that the State Constitution protects a much broader range of civil and political rights than does the Federal Constitution. Certainly, Article I, Section 4, contains a more specific recognition of the liberty of speech and press than does the First Amendment of the United States Constitution.

The Constitution of the State of Wisconsin, for instance, contains a provision very similar to Article I, Section 4. In several cases, the Wisconsin Supreme Court has noted that a state may permit a greater degree of freedom of speech and press than the United States Constitution requires, but the state may not permit less. **McCauley v. Tropic of Cancer,** 121 N. W. 2d 545, and **Gall v. Wittig,** 167 N. W. 2d 577 (1969). Sooner or later, Alabama courts must give meaning to this wording of our State Constitution. In the absence of a definitive court case or standards by which to judge this important section, we are unable to conclude that Section 317 of the Merit System Act is violative of the State Constitution. Until such a court test, Section 13 must be presumed constitutional.

A number of activities are clearly prohibited by Section 317. These are (1) that no discrimination in public employment shall occur because of the political affiliations or religious affiliations or opinions of those seeking public employment, (2) that no person can seek or attempt to use any political endorsement in connection with any appointment to public employment, (3) that no public employee can solicit or contribute in any way his own money to a political campaign or to a political party, and (4) that no employee can be a member of any national, state, or local committee of a political party or a political group or be an official of a political group or be a candidate for nomination or election to any public office. Furthermore, there is also the vague prohibition that no public employee "shall take any part in the management or affairs of any political campaign." The act does not specify in which activities State employees can participate. It is the opinion of this office that a blanket prohibition against all political activities by State employees is a blatant and gross violation of both the State and Federal Constitutions. It is further our opinion that State employees may (1) wear political buttons while they are not at work, (2) may place political bumper stickers on their cars, and (3) may attend political meetings purely as spectators. Any act which attempts to stop employees from exercising these three prerogatives violates the basic spirit of everything for which the founding fathers of this nation stood.

As the Bicentennial approaches, it is our hope that the Alabama Legislature will see fit to make public employees something more than second class citizens by reforming and redrafting this archaic section of Alabama's State Merit System Act.

In summary, it is our opinion that Section 317 is still valid under recent Supreme Court decisions and may be enforced. However, it should not create in the minds of public employees the fear that their jobs will be endangered if they participate in harmless political activities.

Yours very truly,

WILLIAM J. BAXLEY
Attorney General

INFORMAL OPINIONS

During the period July 1, 1975 through September 30, 1975 the Attorney General rendered the following informal opinions.

Subject	Addressee	Date	File
	—A—		
ABC BOARD			
Alabama Sports Hall of Fame—Refund of Liquor Sales Tax	Henry B. Gray	July 24	ABC Board
ABC LAW			
Beer Distributor Warehouse—Located Near School	Norwood Hodges	July 11	330
Alcoholic Beverages—Dry County	Mike Moebes	July 29	294
AL VALOREM			
Probate Office Records—Furnished to Reappraisal Mapping Contractor	John L. Moore	Aug. 20	10
Share Stock Return—Industrial Exemption	Jack Friday	Sept. 25	247
City Ad Valorem Tax—Not Outside City Limits	Ralph L. Liverman	Sept. 29	345
Alabama Physicians—Disability Certification—Ad Valorem	W. P. Farrar	Aug. 27	353
AGE OF MAJORITY			
19-Year-Olds—Serve on Juries	Julius Cecil Bell	Aug. 28	335
ALABAMA DEVELOPMENT OFFICE			
Coastal Area Act—Proposed Revision	Douglas I. Johnstone	Aug. 4	323

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ALABAMA HISTORICAL COMMISSION			
Competitive Bids—Antique Furniture Restoration	W. Warner Floyd	Aug. 21	Historical Comm.
ALABAMA PUBLIC SCHOOL & COLLEGE AUTHORITY			
School Funds Distribution—Teacher Units	James R. Solomon	July 14	Ala. Pub. School & Col. Authority
ALCOHOLIC BEVERAGES			
Alabama Sports Hall of Fame—Refund of Liquor Sales Tax	Henry B. Gray	July 24	ABC Board
Alcoholic Beverages—Dry County	Mike Moebes	July 29	294
Illegal Alcoholic Beverages—Illegal Search Warrant	John Tinney	Aug. 28	351
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Annexation Referendum—Constitutional to Include Agreement	Kerry Rich	Aug. 8	291
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Hospital Board—Architects Fee—No Contract	J. W. Oakley	Sept. 19	326
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Register Commission—Private Sale	Adeline D. Walker	Sept. 26	347
AUDITOR			
Travel Expenses—Tourist Class on Airlines	Bettye Frink	Sept. 9	Auditor's Office

Subject	Addressee	Date	File
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State Insurance Laws Control	Robert E. Morrow	July 9	334
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Deputy Sheriff—Bailiff—No Extra Pay	Keltys Powell	July 11	321
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Title 5, Section 79, **Code**	M. Douglas Mims	July 31	Banking Dept.
Banks—Use of Word "Trust"	M. Douglas Mims	July 31	Banking Dept.
BANKS & BANKING			
Capital Stock Decrease—			
Title 5, Section 79, **Code**	M. Douglas Mims	July 31	Banking Dept.
Banks—Use of Word "Trust"	M. Douglas Mims	July 31	Banking Dept.
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City Board of Education—			

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School Funds—Not for Private Club	Harold R. Collins	July 25	289
School Bond Debt—City of Pleasant Grove—County Board May Purchase School	Thomas N. Crawford	July 14	300
School Board—Allocation to Specific School	Franklin Kellett	July 23	304
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Bid Law—Road Materials	Ray D. Bass	Sept. 17	Hwy. Dept.
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Law Enforcement—Cover Tags—Motor Vehicles	Mike Moebes	Aug. 7	294
Assistant District Attorney—Teaching Part-Time	Charles A. Graddick	Aug. 21	177
Solicitor's Fund—Travel Expenses	W. Mark Anderson	Aug. 18	43
Legislator—May Be Trial Coordinator—D.A.'s Office	Charles A. Graddick	Sept. 29	177
Coroner—Investigator for D.A.	Nathan G. Watkins	Sept. 4	355
DUAL OFFICEHOLDING			
Deputy Sheriff—Bailiff No Extra Pay	Keltys Powell	July 11	321
Coroner—Investigator for D.A.	Nathan G. Watkins	Sept. 4	355
—E—			
ELECTIONS			
Candidate for Two Offices—Name Can Be On Ballot But Once	Walker Hobbie	July 18	269
Local Bill—Montgomery City Election	Walker Hobbie	July 31	269

Subject	Addressee	Date	File
Votes Required—City Recall Election	Burwell L. Wilbanks	July 9	282
Voter Registration—17-Year-Olds	Thomas A. Jernigan	Aug. 8	311
Recalled City Commissioner—			
Cannot Succeed Himself	Mattie Leapley	Sept. 16	338
Successor to Recalled Commissioner—			
Unexpired Term	Mattie Leapley	Sept. 11	338
EMPLOYMENT, EMPOLYERS & EMPLOYEES			
Assistant District Attorney—			
Teaching Part-Time	Charles A. Graddick	Aug. 21	177
Clerk of County Commission—			
Also Jury Commission Clerk	O. S. Burke	Aug. 15	308
Employee Contract—Classified Service	R. N. Hobson	July 10	312
Employee Transfer—			
Not Paid Annual Leave	William W. Dillard	Aug. 15	Exams. of Pub. Acct's
Franklin County—Overtime Pay—			
Deputy Sheriffs	W. W. Weatherford	Sept. 25	26
Water Board Chairman—			
Authority Over Employees	W. Warren Aaron	Sept. 12	328
City Water Board Employee—			
Spouse City Councilman	L. N. Payne	Aug. 29	236
Social Security—Employer Contributions—			
Probate Judge Income	Fred L. Huggins	July 21	273
Removal of Police Chief—			
Notice and Hearing—City of Madison	Burwell L. Wilbanks	July 31	282
ETHICS ACT			
Secretary of Senate/Clerk of House—			
Fees for Transcripts	Melvin G. Cooper	July 14	Ethics Comm.

Subject	Addressee	Date	File
ETHICS COMMISSION			
Ethics Commission—Members Not Affected by H.R. 240	Melvin Cooper	Aug. 14	Ethics Comm.
Ethics Commission—Members Serve Out Terms	Melvin Cooper	Aug. 25	Ethics Comm.
ETHICS LAW			
Houston County Sheriff—Servicing of County Cars	A. B. Clark	July 21	339
ETOWAH COUNTY			
Etowah County—Health Department Funding	Kerry Rich	Sept. 11	291
EXPENSES			
Tips Reimbursed—Out of State Travel	Fred E. Zeigler	July 14	Comptroller's Office
Solicitor's Fund—Travel Expenses	W. Mark Anderson	Aug. 18	43
Lee County—Probate Judge—Expense Allowance	Ira H. Weissinger	Aug. 22	276
Mental Health Centers—Expenses of Board	James D. Nabors	Sept. 8	357
Travel Expenses—Tourist Class on Airlines	Bettye Frink	Sept. 9	Auditor's Office
	—F—		
FAIRFIELD, CITY OF			
City of Fairfield—Councilwoman—City Recorder	James H. Sims	July 8	59
FILING TAX			
Supplemental Indenture—Mortgage Tax	Felix Felton	July 1	281

Subject	Addressee	Date	File
Postal Service—Exempt From Deed Tax	W. L. Woodham	July 2	301
FINANCE DEPARTMENT			
Mansion Fund—Departmental Emergency Fund	James R. Solomon	July 1	Finance Dept.
School Funds Distribution—Teacher Units	James R. Solomon	July 14	Ala. Pub. Schools & Col. Authority
FIREARMS			
Pistol Ownership—Crimes of Violence	Melvin Bailey	Sept. 24	186
Security Force—Utility Plant	Terry D. Stripling	Sept. 19	349
FORESTRY COMMISSION			
Forestry Commission—Communications Technicians—A.P.O. Fund	C. W. Moody	Aug. 15	Forestry Comm. Conservation
FORT MORGAN HISTORICAL COMMISSION			
Ft. Morgan—Antique Cannons	Claude D. Kelley	Sept. 26	Conservation Dept.
FUNDS			
Mansion Fund—Departmental Emergency Fund	James R. Solomon	July 1	Finance Dept.
Sheriff's Office—Investigators—Federal Funds	William B. Duncan	July 3	257
County Health Dept—State Agency—No Financial Preference	David B. Carnes	July 24	57
School Funds—Not for Private Club	Harold R. Collins	July 25	289
Community Development Funds—Tuscaloosa	C. Snow Hinton	Aug. 8	293

Subject	Addressee	Date	File
City Building Repair— Leased to Girl Scouts	John R. Phillips	July 29	72
Community Development Funds— Roosevelt City	David H. Hood	Aug. 21	296
Community Development Funds— City of Moulton	H. A. Alexander	Sept. 9	314
Community Development Funds— Historical Site Restoration	Walter J. Knabe	Aug. 28	322
Food Stamp Program Funds— Cannot Purchase Real Property	W. Mark Anderson	Aug. 26	43
Prichard Building Authority— Telephone System—City Funds	Robert G. Kendall	Aug. 8	333
Historical Site—Community Development Funds	Walter J. Knabe	Aug. 25	322
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GASOLINE FUND			
Gas Tax Funds—Not for General Fund	J. Pelham Ferrell	Sept. 24	342
GOVERNOR			
Mansion Fund—Departmental Emergency Fund	James R. Solomon	July 1	Finance Dept.
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HEALTH & HEALTH DEPARTMENTS			
Public Pay Toilets—Not Allowed	Ira L. Myers	Aug. 2	Public Health Dept.
County Health Dept—State Agency— No Financial Preference	David B. Carnes	July 24	57

Subject	Addressee	Date	File
Etowah County—Health Department Funding	Kerry Rich	Sept. 11	291
HIGHWAY DEPARTMENT			
Bid Law—Road Materials	Ray D. Bass	Sept. 17	Highway Dept.
HOSPITALS			
Hospital Board—Architects Fee—No Contract	J. W. Oakley	Sept. 19	326
Hospital Board Member—Drug Salesman—Conflict of Interest	Donald W. Lang	Sept. 22	306
State Insurance Fund—Mandatory if Qualified Structure	Larry W. Jennings	Sept. 29	358
HOUSING AUTHORITIES			
Federal Funds Expended—Community Development Program	E. H. Graves	July 11	278
HOUSTON COUNTY			
License Commissioner Created—Legislation Constitutional	William D. Edwards	July 25	280
Houston County Sheriff—Servicing of County Cars	A. B. Clark	July 21	339
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INSURANCE			
Blue Cross—Jefferson County—Sales Tax	James Healey	July 7	288
State Insurance Fund—Mandatory If Qualified Structure	Larry W. Jennings	Sept. 29	358

Subject	Addressee	Date	File
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JEFFERSON COUNTY			
Blue Cross—Jefferson County—Sales Tax	James Healey	July 7	288
JUDGES			
Supernumerary Circuit Court Judge—Salary and Powers	Maury Friedlander	Aug. 4	21
Supernumerary Circuit Judge—Compensation Same	Patrick H. Tate	Sept. 30	346
JURORS & JURIES			
Clerk of County Commission—Also Jury Commission Clerk	O. S. Burke	Aug. 15	308
19-Year-Olds—Serve on Juries	Julius Cecil Bell	Aug. 28	335
	— L —		
LAW ENFORCEMENT			
Law Enforcement—Cover Tags—Motor Vehicles	Mike Moebes	Aug. 7	294
Miranda Warning—City Ordinance Violation	Phyllis S. Nesbit	July 22	74
LEASES			
Postal Service—Exempt From Deed Tax	W. L. Woodham	July 2	301
LEE COUNTY			
Lee County—Probate Judge—Expense Allowance	Ira . Weissinger	Aug. 22	276

Subject	Addressee	Date	File
LEGISLATION			
Retired Police—Birmingham—Pension Increase	W. H. Fieselman	July 2	264
Local Bill—Montgomery City Election	Walker Hobbie	July 31	269
License Commissioner Created—Legislation Constitutional	William D. Edwards	July 25	280
Ethics Commission—Members Not Affected by H.R. 240	Melvin G. Cooper	Aug. 14	Ethics Comm.
Annexation Referendum—Constitutional to Include Agreement	Kerry Rich	Aug. 8	291
Lee County—Probate Judge— Expense Allowance	Ira H. Weissinger	Aug. 22	276
LEGISLATORS			
Legislator—Contract With State	Carl Jolly	Aug. 7	225
Legislator—May Be Trial Coordinator—D.A.'s Office	Charles A. Graddick	Sept. 29	177
LEGISLATURE			
Secretary of Senate/Clerk of House—Fees for Transcripts	Melvin G. Cooper	July 14	Ethics Comm.
LIBRARIES			
Cahaba Regional Library—Prattville Library Board	Lucretia M. Somers	Aug. 8	317
LICENSE COMMISSIONERS			
License Commissioner Created—Legislation Constitutional	William D. Edwards	July 25	280

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LICENSES & PERMITS			
Contractor License Fee—Change Order Original Contract	Conrad M. Fowler	July 8	275
City Contractor's License—Fact Situation —City May Levy	David W. Lang	July 11	306
City License Requirement— LP Gas Company	Jimmy Putnam	Sept. 10	360
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MACON COUNTY			
Macon County—Deputy Circuit Clerks—Salaries	James M. Hopkins	Sept. 4	356
MANSION FUND			
Mansion Fund—Departmental Emergency Fund	James R. Solomon	July 1	Finance Dept.
MENTAL HEALTH			
Mental Health—Treatment Of Minors	Robert C. Bottoms	Sept. 3	310
Mental Health Centers—Expenses of Board	James D. Nabors	Sept. 8	357
MINIMUM STANDARDS ACT			
Police Training—Nine Month Deadline	Leon T. Waits	Sept. 22	341
MIRANDA RULE			
Miranda Warning—City Ordinance Violation	Phyllis S. Nesbit	July 22	74
MOBILE COUNTY			
Probate Office Records—Furnished to Reappraisal Mapping Contractor	John L. Moore	Aug. 20	10

Subject	Addressee	Date	File
MORGAN COUNTY			
Rescue Squad—County Funds	Thornton Fleming	July 15	146
MORTGAGE TAX			
Supplemental Indenture—Mortgage Tax	Felix Felton	July 1	281
Mortgage Tax—Instrument Of Amendment	A. L. Wakefield	Aug. 12	324
MOTOR VEHICLES			
Law Enforcement—Cover Tags—Motor Vehicles	Mike Moebes	Aug. 7	294
MUNICIPALITIES			
City of Fairfield—Councilwoman—City Recorder	James H. Sims	July 8	59
City Board of Education—Property Lease to City	Wayne Teague	July 15	262
Mayor Cannot Veto—Administrative Ordinance	Carl H. Kilgore	July 8	263
Removal of Police Chief—Notice and Hearing—City of Madison	Burwell L. Wilbanks	July 31	282
Federal Funds Expended—Community Development Program	E. H. Graves	July 11	278
City Contract—Telephone Company—One Year Limit	James H. Weaver	July 30	285
Votes Required—City Recall Election	Burwell L. Wilbanks	July 9	282
Utility Board Member—Cannot Waive Salary	Glenda Allison	July 15	287
Community Development Funds—Tuscaloosa	C. Snow Hinton	Aug. 8	293

Subject	Addressee	Date	File
City Building Repair—Leased to Girl Scouts	John R. Phillips	July 29	72
Form of City Government—Special Census	Thomas A. Dujanovic	July 25	297
Community Development Funds—Roosevelt City	David H. Hood	Aug. 21	296
City Zoning—Board of Adjustment Procedure	Steven P. Cotney	July 14	302
City Contractor's License—Fact Situation—City May Levy	David W. Lang	July 11	306
Employee Contract—Classified Service	R. N. Hobson	July 10	312
Community Development Funds—City of Moulton	H. A. Alexander	Sept. 9	314
Municipal Participation—Non-Profit Corporation	Watts E. Davis	July 20	315
Building Destruction—Nuisance Abatement	Edward F. Porter	July 2	320
Community Development Funds—Historical Site Restoration	Walter J. Knabe	Aug. 28	322
Water Board Chairman—Authority Over Employees	W. Warren Aaron	Sept. 12	328
Vestavia Hills—Effective Date—Board of Commissioners	John T. Scates	Sept. 12	329
Phenix City—Form of Government	James A. Baker	Sept. 10	332
Prichard Building Authority—Telephone System—City Funds	Robert G. Kendall	Aug. 8	333
Police Training—Nine Month Deadline	Leon T. Waites	Sept. 22	341
City Ad Valorem Tax—Not Outside City Limits	Ralph L. Liverman	Sept. 29	345
Security Force—Utility Plant	Terry D. Stripling	Sept. 29	349

Subject	Addressee	Date	File
City Water Board Employee—Spouse City Councilman	L. N. Payne	Aug. 29	236
City Planning Commission—Subdivision Regulation	Charles J. Fleming	Aug. 29	359
City License Requirement—LP Gas Co.	Jimmy Putnam	Sept. 10	360
City Councilman—No Business With City	Charles H. Simison	Sept. 12	361
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NURSING BOARD			
Nursing Board—Exam Fees Revised	Betty Tomlin	Aug. 29	Nursing Board
—O—			
OFFICERS & OFFICES			
Removal of Police Chief—Notice and Hearing—City of Madison	Burwell L. Wilbanks	July 31	282
Votes Required—City Recall Election	Burwell L. Wilbanks	July 9	282
Utility Board Member—Cannot Waive Salary	Glenda Allison	July 15	287
Relative of City Offical—Bid on Contract	James C. Wood	Sept. 10	209
Successor to Recalled Commissioner—Unexpired Term	Mattie Leapley	Sept. 11	338
Recalled City Commissioner—Cannot Succeed Himself	Mattie Leapley	Sept. 16	338
City Councilman—No Business With City	Charles H. Simison	Sept. 12	361
ORDINANCES			
Mayor Cannot Veto—Administrative Ordinance	Carl H. Kilgore	July 8	263

Subject	Addressee	Date	File
Annexation Referendum—Constitutional to Include Agreement	Kerry Rich	Aug. 8	291
Building Destruction—Nuisance Abatement	Edward P. Porter	July 2	320
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PENSIONS			
Retired Police—Birmingham— Pension Increase	W. H. Fieselman	July 2	264
PENSIONS & SECURITY DEPARTMENT			
Food Stamp Program Funds—Cannot Purchase Real Property	W. Mark Anderson	Aug. 26	43
PERSONNEL DEPARTMENT			
Employee Transfer—Not Paid Annual Leave	William W. Dillard	Aug. 15	Exam. of Public Acc'ts
PHENIX CITY, CITY OF			
Phenix City—Form of Government	James A. Baker	Sept. 10	332
PHYSICIANS			
Board of Medical Examiners—Reciprocity Applications	L. Brooks Hines	Sept. 25	325
Alabama Physicians—Disability Certification—Ad Valorem	W. P. Farrar	Aug. 27	353
PLANNING & DEVELOPMENT COMMISSION			
City Planning Commission—Subdivision Regulation	Charles J. Fleming	Aug. 29	359

Subject	Addressee	Date	File
POLICE OFFICERS			
Police Training—Nine Month Deadline	Leon T. Waits	Sept. 22	341
POULTRY			
Poultry Exempt—Motor Carrier Act	Carl Evans	Aug. 18	Public Service Comm.
PRISONS & PRISONERS			
Prisoner Medical Expenses— During Arrest & Incarceration	James A. Avary	July 28	34
PROBATE JUDGES			
Social Security—Employer Contributions— Probate Judge Income	Fred L. Huggins	July 21	273
Supernumerary Law—Probate Judge Contributions	R. J. Green	Sept. 3	130
Mortgage Tax—Instrument of Amendment	A. L. Wakefield	Aug. 12	324
PROPERTY			
City Board of Education— Property Lease to City	Wayne Teague	July 15	262
City Building Repair— Leased to Girl Scouts	John R. Phillips	July 29	72
Local School Board—Sale of Property	Ed Arnold	Aug. 1	313
PUBLIC HEALTH DEPARTMENT			
Public Pay Toilets—Not Allowed	Ira L. Myers	Aug. 2	Public Health Dept.
PUBLIC LIBRARY SERVICE			
Prize for Seal Design—Cannot Pay	Eliz. P. Beamguard	Aug. 1	Public Library Service

Subject	Addressee	Date	File
PUBLIC MEETINGS			
Board of Education—Work Sessions/Retreats	Wilmer S. Cody	Sept. 25	350
PUBLIC SERVICE COMMISSION			
Common Carrier—Charter Operations	Carl L. Evans	July 25	Public Service Comm.
Poultry Exempt—Motor Carrier Act	Carl Evans	Aug. 18	Public Service Comm.
Motor Carrier Act of 1939—Plywood & Particle Board	Kenneth Hammond	July 30	Public Service Comm.
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REAPPRAISAL			
Probate Office Records—Furnished to Reappraisal Mapping Contractor	John L. Moore	Aug. 20	10
RECORDS			
Probate Records—Mobile County	Charles A. Boswell	July 24	Revenue Dept.
REGISTERS			
Register Commission—Private Sale	Adeline D. Walker	Sept. 26	347
RETIREMENT SYSTEMS			
Retirement Systems—Fiduciary Obligations	David G. Bronner	July 16	Retirement Systems
Forestry Commission—Communications Technicians—A.P.O. Fund	C. W. Moody	Aug. 15	Forestry Comm.
REVENUE DEPARTMENT			
Probate Records—Mobile County	Charles A. Boswell	July 24	Revenue Dept.

Subject	Addressee	Date	File
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SALARIES			
Supernumerary Circuit Court Judge—Salary and Powers	Maury Friedlander	Aug. 4	21
Utility Board Member—Cannot Waive Salary	Glenda Allison	July 15	287
Special Circuit Clerk—Method of Payment	Hardie Kimbrough	July 9	298
Elmore County—Deputy Sheriffs—Overtime Pay	Sidney Thrash	Sept. 26	343
Macon County—Deputy Circuit Clerks—Salaries	James M. Hopkins	Sept. 4	356
SALES TAX			
Blue Cross—Jefferson County—Sales Tax	James Healey	July 7	288
SCHOOLS			
School Building—Civic Functions	Floyd McLeod	Sept. 2	28
School Board—Allocation To Specific School	Franklin Kellett	July 23	304
School Bond Debt—City of Pleasant Grove—County Board May Purchase School	Thomas N. Crawford	July 14	300
Local School Board—Sale of Property	Ed Arnold	Aug. 1	313
SEARCH & SEIZURE			
Illegal Alcoholic Beverages—Illegal Search Warrant	John Tinney	Aug. 28	351

Subject	Addressee	Date	File
SHERIFFS			
Sheriff's Office—Investigators—Federal Funds	William B. Duncan	July 3	257
Deputy Sheriff—Bailiff—No Extra Pay	Keltys Powell	July 11	321
Franklin County—Overtime Pay—Deputy Sheriffs	W. W. Weatherford	Sept. 25	26
Pistol Ownership—Crimes of Violence	Melvin Bailey	Sept. 24	186
Elmore County—Deputy Sheriffs—Overtime Pay	Sidney Thrash	Sept. 26	343
SOCIAL SECURITY			
Social Security—Employer Contributions—Probate Judge Income	Fred L. Huggins	July 21	273
SOLICITOR'S FUND			
Solicitor's Fund—Travel Expenses	W. Mark Anderson	Aug. 18	43
STATE PARKS			
Tombstone Removal—State Park	W. T. Vandeford	Sept. 29	164
SUPERNUMERARY POSITIONS			
Supernumerary Circuit Court Judge—Salary and Powers	Maury Friedlander	Aug. 4	21
Supernumerary Law—Probate Judge Contributions	R. J. Green	Sept. 3	130
Supernumerary Circuit Judge—Compensation Same	Patrick H. Tate	Sept. 30	346
SURETIES			
Bail Bond Company—State Insurance Laws Control	Robert E. Morrow	July 9	334

Subject	Addressee	Date	File
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TAX ASSESSORS			
Share Stock Return—Industrial Exemption	Jack Friday	Sept. 25	247
TAX COLLECTORS			
Proper Notice—Tax Sales	Charles E. Howard	July 22	103
TAX SALES			
Proper Notice—Tax Sales	Charles E. Howard	July 22	103
TAXATION			
Alabama Sports Hall of Fame—Refund of Liquor Sales Tax	Henry B. Gray	July 24	ABC Board
County Health Tax Levy—One-Half of One Percent Limit	Harry Sizemore	July 28	239
Cost of Act 2220, 1971 Acts—Paid From Tax Collection	Walter J. Merrill	Aug. 15	76
TEACHERS			
Tenure Hearings—Court Reporter Not Required	U. W. Clemon	Aug. 1	307
$500 Penalty—Board of Education	Walter J. Merrill	July 16	76
TRAFFIC			
Miranda Warning—City Ordinance Violation	Phyllis S. Nesbit	July 22	74
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UTILITY BOARDS			
Water Service Cost—City Utility Board	R. O. Murphree	July 2	318

Subject	Addressee	Date	File
Water Board Chairman—Authority Over Employees	W. Warren Aaron	Sept. 12	328
Water Works Superintendent—Cannot Be Awarded Contract	George W. Gibbs	Sept. 30	331
Security Force—Utility Plant	Terry D. Stripling	Sept. 29	349
City Water Board Employee—Spouse City Councilman	L. N. Payne	Aug. 29	236
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VESTAVIA HILLS, CITY OF			
Form of City Government—Special Census	Thomas A. Dujanovic	July 25	297
Vestavia Hills—Effective Date—Board of Commissioners	John T. Scates	Sept. 12	329
VOTERS REGISTRATION			
Board of Registrars—City Elections	Lonnie H. Hilley	Sept. 4	352
VOTERS			
Voting Precincts Combined—Notification of Probate Office	Ann Bell	Aug. 13	78
Voter Registration—Outside Of Registrar's Office	Milene Stevenson	Aug. 21	295
Voter Registration—17-Year-Olds	Thomas A. Jernigan	Aug. 8	311
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WARRANTS			
Arrest Warrant Form—Judicial Matter	Robert Newman	Aug. 19	309

Subject	Addressee	Date	File
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YOUTH SERVICES DEPARTMENT			
Employee Removal Authorized	George M. Phyfer	Aug. 29	Youth Services Dept.
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ZONING			
City Zoning—Board of Adjustment Procedure	Steven P. Cotney	July 14	302
City Planning Commission—Subdivision Regulation	Charles J. Fleming	Aug. 29	359